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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ANTHONY ABUZEIDE, Special
10 Administrator for the Estate of Jack Berry
11 Dane,

12 Plaintiff,

13 v.

14 OPENROAD AUTO GROUP, INC., a
15 Washington corporation d/b/a BELLEVUE
16 LAMBORGHINI ROLLS-ROYCE
17 BENTLEY,

18 Defendant.

No. C17-583 RSM

STIPULATION AND ORDER
PARTIALLY DISSOLVING
PRELIMINARY INJUNCTION

19 Plaintiff Anthony Abuzeide, Special Administrator for the Estate of Jack Berry
20 Dane (the “Estate”) (collectively, “Abuzeide”), and Defendant OpenRoad Auto Group,
21 Inc. (“OpenRoad”), having conferred through counsel, hereby stipulate and respectfully
22 request that the Court order as follows:

23 1. This action involves a dispute regarding the ownership and the right to
24 possession of a Porsche 918 Spyder, VIN WPOCA2A13FS800236 (the “Vehicle”). On
25 April 27, 2017, prior to OpenRoad’s appearance and in response to a motion brought by
26 Abuzeide, the Court entered an Order Granting Preliminary Injunction and Setting Second
Preliminary Injunction Hearing (“Preliminary Injunction”). Dkt. 19. The Court scheduled

1 a second preliminary injunction hearing for May 11, 2017. However, on May 5, 2017, in
2 response to a stipulation and proposed order submitted on behalf of both parties, the Court
3 agreed to delay and reschedule the second preliminary injunction hearing “to provide time
4 [for the parties] to negotiate a resolution to the preliminary injunction issues before the
5 Court.” Dkt. 24. The parties have since completed that negotiation. They now submit the
6 instant stipulation and proposed order to provide for partial dissolution of the Preliminary
7 Injunction, which in turn will allow for the possibility of liquidating and securing the
8 monetary value of the Vehicle.
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10 2. Subject to the Court’s approval of the proposed order below, the parties
11 have agreed that OpenRoad may sell, transfer, and/or assign ownership, title, and
12 possession of the Vehicle. The parties agree to such a transaction with a third party (a
13 “Sale”), so long as it does not compromise the parties’ respective rights, will simplify this
14 dispute and mitigate certain risks in a manner that mutually benefits them both.
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16 3. The parties jointly request that the Court partially dissolve the Preliminary
17 Injunction, Dkt. 19, for the sole purpose of permitting OpenRoad to sell, transfer, and/or
18 assign ownership of the Vehicle to a third party for an amount not less than \$1.45 million
19 (“Sale Proceeds”). Any Sale of the Vehicle for an amount less than \$1.45 million shall
20 require Abuzeide’s prior written consent. OpenRoad shall be authorized to market and
21 dispose of the Vehicle pursuant to the foregoing provisions until December 31, 2017
22 (“Expiration Date”), except that such time may be extended by Abuzeide’s written
23 authorization. If the Vehicle has not sold by the Expiration Date (or any extension
24 thereof), the Preliminary Injunction may be reinstated upon the request of either party.
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1 4. Within two business days of receiving the Sale Proceeds, OpenRoad agrees
2 to deposit all Sale Proceeds into an escrow account or the registry of the Court, pending
3 resolution of this action. Said funds may not be disbursed without prior order of this
4 Court. Submitted contemporaneously with this stipulation and proposed order is a
5 Proposed Order Re the Deposit of Funds into Court Registry.
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7 5. Subject to the following conditions, and within seven days of the issuance
8 of the Order below, Abuzeide agrees to assign to OpenRoad any and all rights or interests
9 Abuzeide has in the Vehicle, if any, for the limited purpose of facilitating a Sale of the
10 Vehicle: (a) the parties agree that neither said assignment nor the stipulation herein
11 operates to waive, release, alter, or otherwise compromise the claims asserted in
12 Abuzeide's complaint; (b) the parties agree that neither OpenRoad's acceptance of such
13 assignment, nor the stipulation herein, constitutes an admission by OpenRoad that
14 Abuzeide has any right to or interest in the Vehicle; and (c) the parties agree that if the
15 Vehicle has not been sold by the Expiration Date (or any extension thereof), the
16 assignment will automatically become null and void, and any rights or interests in the
17 Vehicle that have been assigned to OpenRoad will revert back to Abuzeide.
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19 6. Subject to the foregoing provisions, Abuzeide agrees not to challenge or
20 interfere with a Sale of the Vehicle. Abuzeide further agrees to cooperate as warranted
21 with OpenRoad in facilitating such a Sale, which shall include but not be limited to
22 executing relevant documents upon request. Abuzeide warrants and represents, subject to
23 the provisions above, that (a) OpenRoad will have the ability under this Stipulation and
24 Order, to transfer unencumbered title to any buyer of the Vehicle ("Buyer"); and (b) upon
25 the occurrence of a Sale, Buyer will become the rightful owner of the Vehicle. Abuzeide
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1 and OpenRoad each agree to provide sworn statements upon the request of the other party
2 and/or Buyer acknowledging Buyer's uncontested ownership of the Vehicle.

3 7. Unless otherwise mutually agreed to in writing by Abuzeide and
4 OpenRoad, if the Vehicle is sold prior to the Court's adjudication of Abuzeide's claim for
5 replevin, Abuzeide and OpenRoad agree to stipulate to an amendment of Abuzeide's
6 complaint so as to allow Abuzeide to seek a determination of the rightful ownership of the
7 Sale Proceeds.
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9 8. Subject to the provisions above, Abuzeide and OpenRoad otherwise
10 reserve all rights, claims, and defenses, whether or not asserted as of the date of this
11 Stipulation and Order, with respect to this action.
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13 9. The Decedent's insurer for the Vehicle, Chubb Insurance, was provided
14 with notice of this stipulation, via its appointed adjuster, and has not objected to the same.

15 10. OpenRoad shall maintain, present, and secure the Vehicle in a
16 commercially reasonable manner considering the value and rarity of the Vehicle.

17 11. OpenRoad shall carry and maintain sufficient fully comprehensive
18 insurance, including liability, to cover a complete loss of the Vehicle for the minimum
19 price referenced herein. Any payment or distribution of insurance proceeds from
20 OpenRoad's insurance for any loss associated with the Vehicle occurring during the
21 pendency of this Court's preliminary injunction, shall be subject to the terms of this
22 Stipulation and Order, and shall be deposited into escrow or the registry of the Court as if
23 such funds were Sale Proceeds. Abuzeide shall make best efforts to secure similar fully
24 comprehensive insurance, including liability, to cover a complete loss of the Vehicle for
25 the minimum price referenced herein.
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1 DATED this 22nd day of May, 2017.

2 McNAUL EBEL NAWROT & HELGREN PLLC

3
4 By s/ Avi J. Lipman

5 Robert M. Sulkin, WSBA No. 15425

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15 Attorneys for Defendant

16 DATED this 22nd day of May, 2017.

17 SMITH ALLING P.S.

18 By s/ Michael E. McAleenan Jr.

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Attorneys for Plaintiff

1 **ORDER**

2 The Court, having reviewed the above stipulation and the records and files herein,
3 hereby finds and ORDERS that:

4 1. The Preliminary Injunction issued April 27, 2017, Dkt. 19, is partially
5 DISSOLVED to permit OpenRoad to sell, transfer, and/or assign ownership of the
6 Porsche 918 Spyder, VIN WP0CA2A13FS800236 ("Vehicle"), that is the subject of this
7 action to a third party for an amount not less than \$1.45 million ("Sale Proceeds"). Any
8 Sale of the Vehicle for an amount less than \$1.45 million shall require Abuzeide's prior
9 written consent. OpenRoad is authorized to market and dispose of the Vehicle pursuant to
10 the foregoing provisions until December 31, 2017 ("Expiration Date"), except that such
11 time may be extended by Abuzeide's written authorization. If the Vehicle has not been
12 sold by the Expiration Date (or any extension thereof), the Preliminary Injunction may be
13 reinstated upon the request of either party.

14 2. OpenRoad shall, within two business days of receiving the Sale Proceeds,
15 deposit all Sale Proceeds into an escrow account or the registry of the Court, pending
16 resolution of this action. Said funds may not be disbursed without prior order of this
17 Court. Contemporaneously with the issuance of this Order, the Court is issuing an Order
18 Re the Deposit of Funds into Court Registry.

19 3. Subject to the following conditions, and within seven days of this Order,
20 Abuzeide shall assign to OpenRoad any and all rights or interests Abuzeide has in the
21 Vehicle, if any, for the limited purpose of facilitating a Sale of the Vehicle: (a) neither
22 said assignment nor the stipulation herein operates to waive, release, alter, or otherwise
23 compromise the claims asserted in Abuzeide's complaint; (b) neither OpenRoad's
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1 acceptance of such assignment, nor the stipulation herein, constitutes an admission by
2 OpenRoad that Abuzeide has any right to or interest in the Vehicle; and (c) if the Vehicle
3 has not been sold by the Expiration Date (or any extension thereof), the assignment will
4 automatically become null and void, and any rights or interests in the Vehicle that have
5 been assigned to OpenRoad will revert back to Abuzeide.
6

7 4. Subject to the foregoing provisions, Abuzeide shall not challenge or
8 interfere with a Sale of the Vehicle. Abuzeide shall cooperate as warranted with
9 OpenRoad in facilitating such a Sale, which shall include but not be limited to executing
10 relevant documents upon request. Subject to the provisions above, (a) OpenRoad will
11 have the ability under this Stipulation and Order, to transfer unencumbered title to any
12 buyer of the Vehicle ("Buyer"); and (b) upon the occurrence of a Sale, Buyer will become
13 the rightful owner of the Vehicle. Abuzeide and/or OpenRoad shall provide sworn
14 statements upon the request of the other party and/or Buyer, acknowledging Buyer's
15 uncontested ownership of the Vehicle.
16

17 5. Unless otherwise mutually agreed to in writing by Abuzeide and
18 OpenRoad, if the Vehicle is sold prior to the Court's adjudication of Abuzeide's claim for
19 replevin, Abuzeide and OpenRoad shall stipulate to an amendment of Abuzeide's
20 complaint so as to allow Abuzeide to seek a determination of the rightful ownership of the
21 Sale Proceeds.
22

23 6. Subject to the provisions above, nothing herein shall prejudice Abuzeide's
24 or OpenRoad's rights, claims, and/or defenses, whether or not asserted as of the date of
25 this Order, with respect to this action.
26

7. OpenRoad shall maintain, present, and secure the Vehicle in a commercially reasonable manner considering the value and rarity of the Vehicle.

12. OpenRoad shall carry and maintain sufficient fully comprehensive insurance, including liability, to cover a complete loss of the Vehicle for the minimum price referenced herein. Any payment or distribution of insurance proceeds from OpenRoad's insurance for any loss associated with the Vehicle occurring during the pendency of this Court's preliminary injunction, shall be subject to this Stipulation and Order, and shall be deposited into escrow or the registry of the Court as if they were Sale Proceeds. Abuzeide shall make best efforts to secure similar fully comprehensive insurance, including liability, to cover a complete loss of the Vehicle for the minimum price referenced herein.

DATED this 24th day of May 2017.

24/10

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT
JUDGE

Presented by:

McNAUL EBEL NAWROT & HELGREN PLLC

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Robert M. Sulkin, WSBA No. 15425
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Attorneys for Defendant

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